

REMARKS

Claims 1-14 remain pending in this application.

35 U.S.C. § 103 Rejection

Claims 1-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sun Microsystems (Sun Microsystems' JAVA™ Device Test Suite Helps Ensure Quality of Mobile Devices, Feb. 17, 2003, Sun Microsystems™, Inc.) (hereinafter 'Sun') in view of Kim Topley (The Mobile Information Device Profile and MIDlets, Excerpted from the book of "J2ME™ In A Nutshell", Oct. 1, 2003, The O'Reilly Network™) (hereinafter 'Topley') and further in view of Farchi et al. (Using a model-based test generator to test for standard conformance, 2002, IBM™ Systems Journal) (hereinafter 'Farchi').

According to 35 U.S.C. 103(c)(1):

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Common Ownership

The subject matter of the Sun reference (Sun Microsystems' JAVA™ Device Test Suite Helps Ensure Quality of Mobile Devices, Feb. 17, 2003, Sun Microsystems™, Inc.) and the claimed invention corresponding to the pending Application Serial No. 10/767,851 (U.S. Publication No. 2005/0172268) were, at the time the invention of Application Serial No. 10/767,851 was made, owned by, or subject to an obligation of assignment to, the same business entity, Sun Microsystems™, Inc.

Therefore, in view of 35 U.S.C. 103(c)(1), the Sun reference does not qualify as 35 U.S.C. 103(a)/102(e) prior art. *See also* MPEP 706.02(l)(1)-(l)(3). Applicant respectfully requests the Examiner to remove the Sun reference as a 35 U.S.C. 103(a)/102(e) prior art reference.

As further evidence of common ownership, Applicant notes that the assignment for the pending Application Serial No. 10/767,851 (U.S. Publication No. 2005/0172268) showing Sun Microsystems™, Inc. as the assignee was recorded at reel 015838, frame 0882.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-80300/MJL.

Respectfully submitted,



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